

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FORTELINEA SOFTWARE SYSTEMS,)	
LLC, f/k/a IBSG HIT, LLC,)	
Plaintiff)	
)	
v.)	C.A. No. 12-cv-30204-MAP
)	
INTEGRATED BUSINESS SOLUTIONS)	
GROUP, LLC, a/k/a INTEGRATED)	
BUSINESS SOLUTIONS GROUP, a/k/a)	
IBSG, OLEG KONDEL, OLEG ANDRUKH,)	
and ALEKSANDR LIBERMAN)	
Defendants)	

MEMORANDUM AND ORDER REGARDING
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
(Dkt. No. 3)

July 3, 2013

PONSOR, U.S.D.J.

This case arises out of an Operating Agreement that Plaintiff created to develop a pathology management system. Plaintiff filed this lawsuit and a Motion for Preliminary Injunction on November 26, 2012. Following a hearing on January 18, 2013, the court found that Plaintiff had demonstrated a likelihood of success on the merits, irreparable harm, and a balance of harm heavily favoring Plaintiff. The fourth factor, public interest, was neutral.

Based on this finding, the court indicated its intention to issue a preliminary injunction. Plaintiff, however, had not provided the court with a text of the actual proposed injunction. With this in mind, the court ordered Plaintiff to submit a proposed order by January 22, 2013 and gave Defendants until January 24, 2013 to respond. Because the language of the two orders was so different, the court instructed the parties to confer and submit a new draft order with areas of disagreement highlighted.

A hearing was scheduled on February 7, 2013 to work through any remaining disagreements. However, counsel requested an extension of this date until March 6, 2013, while settlement negotiations continued. The March 6 date was later extended to May 14, when the court held a status conference. At that time, counsel agreed to attempt to finalize language for a preliminary injunction and also to present argument on Defendant's Motion to Compel Arbitration.

On June 6, 2013, counsel, having been unable completely to resolve their differences, appeared before this court for argument regarding their separate versions of the potential

preliminary injunction. They also presented argument on Defendant's Motion to Compel Arbitration or Dismiss (Dkt. No. 45).

On July 1, 2013, the court issued an endorsed order denying the Motion to Compel Arbitration or Dismiss. The court's reasoning was, in summary, that the disputes at issue in this case are not covered by the arbitration provision, and that Defendants, by their vigorous participation in the litigation, waived arbitration.

This leaves only Plaintiff's Motion for Preliminary Injunction (Dkt. No. 3). This motion is hereby ALLOWED, for the reasons set forth in detail at the hearing held on January 18, 2013. In short, Plaintiff has made a clear showing of likelihood of success on the merits, irreparable harm, and a balance of harm heavily in its favor. The Preliminary Injunction issued today will protect Plaintiff's rights while this case is addressed substantively.

This case is hereby referred to Magistrate Judge Kenneth P. Neiman for a pretrial scheduling conference pursuant to Fed. R. Civ. P. 16.

It is So Ordered.

/s/ Michael A. Ponsor

MICHAEL A. PONSOR

U. S. District Judge